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A STUDY ON ENVIRONMENTAL JUSTICE AND POLICY ADVOCACY

~ Ananya Pandey¹

Abstract

The article explores the impact of consumer protection laws on the banking industry, highlighting how these regulations have transformed the banking sector. The study reveals that these laws have compelled banks to improve transparency and disclosure practices, leading to clearer communication of terms and conditions and reducing information asymmetry. They also promote fair lending practices and equal access to financial services while mitigating discriminatory actions. The article also examines operational adjustments banks have made to achieve compliance, such as streamlining internal processes to handle customer complaints and incorporating robust data security measures to protect sensitive consumer information. Despite the positive outcomes, the article acknowledges challenges faced by banks, such as balancing profitability with compliance costs. Overall, the article provides valuable insights into the complex relationship between consumer protection laws and the banking industry.

Keywords

Consumer Protection Laws, Banking Industry, Transparency, Fair Lending, Compliance

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INTRODUCTION

Precedent in judicial cases pertaining to the relationship between bankers and customers has firmly established that banks offer services to their customers. Consequently, under the Consumer Protection Act of 1986, a customer qualifies as a consumer within the purview of Section 2(I)(d)(ii). In the case of *Standard Chartered Bank Ltd. v. B.N. Raman*², the Hon'ble Supreme Court of India opined that banking constitutes a commercial function. The term 'banking' is construed to encompass the acceptance of deposits from the public, with the intention of lending or investing these funds, repayable either upon demand or through other agreed-upon terms. The fundamental objective behind the enactment of the 1986 Act is to safeguard individuals who avail themselves of the services furnished by banks. These services include not only those extended to customers but also to non-customers. Banks provide a range of facilities and services, such as facilitating remittances, accepting deposits, offering secure lockers, enabling the discounting of cheques, collecting cheque payments, and issuing bank drafts, among various others. The comprehensive spectrum of services offered by banks underscores their commitment to catering to the financial needs of their client, whether they are existing customers or individuals who seek specific banking services. The legal precedent and the understanding of the broader concept of banking emphasize the consumer protection aspect embedded within the 1986 Act, ensuring that individuals availing themselves of banking services are duly safeguarded and supported.

Sir John Paget's classification of a customer based on the duration and frequency of transactions faced rejection and condemnation in a significant legal precedent set by Lord Dunedin in the pivotal case of *Commissioners of Taxation vs. English, Scottish, and Australian Bank*³. In this landmark ruling, Lord Dunedin emphatically pronounced that the term 'customer' does not hinge on the length of the relationship. According to him, a person qualifies as a customer of a bank when their funds have been accepted by the bank under the understanding that it will honor cheques up to the amount available, regardless of whether the individual's association with the bank is of extended or limited duration. The statute's interpretation, as per their Lordships, designates an

² (2006) 5 SCC 727: AIR 2006 SC 2810

³ 1920 AC 683 : 123 LT 34 (PC)

individual as a customer based on this criterion, thereby transcending the constraints of a lengthy or brief association.

Consumer protection laws have significantly impacted the banking sector by necessitating the establishment of regulatory agencies to ensure proper oversight. For instance, The Reserve Bank of India (RBI) functions as the central monetary authority in the country, responsible for supervising and regulating the banking sector. This includes the authority to issue directives and mandates aimed at protecting consumers and imposing penalties on financial institutions that violate consumer protection statutes.

Additionally, The Securities and Exchange Board of India (SEBI) is entrusted with the regulatory role of overseeing the securities market within India. This coverage extends to banks involved in issuing securities. Under this regulatory framework, various banking activities related to securities trading, such as underwriting, merchant banking, and portfolio management services, fall under scrutiny.

Consumer protection laws have prompted the formulation of fresh banking regulations. For instance, numerous countries mandate that banks furnish consumers with comprehensive information about their offerings, encompassing details such as fees, interest rates, and additional charges. The objective of these regulations is to empower consumers to make well-informed choices regarding their banking needs. Additionally, consumer protection laws have broadened the rights of consumers in situations of disagreement with their financial institutions.

These laws have sculpted the banking sector's legal framework, guaranteeing consumers' fair treatment and holding banks accountable for their conduct. To uphold the trust of their client and the wider public, banks must remain up-to-date with these laws and regulations, ensuring unwavering compliance.

IS REGULATION 15 OF THE CONSUMER PROTECTION REGULATIONS, 2005 INTRA VIRES TO SECTION 22 OF THE CONSUMER PROTECTION ACT, 1986?

In the case of *Surendra Mohan Arora v. HDFC Bank Ltd*⁴. The Supreme Court ruled that the regulations were formulated in adherence to the law. The Court thoroughly examined Regulation 15(2) of the Regulations and determined that the authority to address review applications rests with the Commission. The Court deliberated on whether the National Commission should hear the parties' arguments orally or if the matter could be resolved through internal circulation.

The Supreme Court found no evidence of wrongdoing in creating these Regulations under Section 22 of the Act and concluded that they were not in violation of the Act. The Court saw no basis to suspect that the National Commission had exceeded its jurisdiction or authority granted by Section 30A of the Act by enacting Regulation 15.

SIGNIFICANCE OF CONSUMER PROTECTION LAWS IN THE BANKING INDUSTRY

Consumer protection regulations play a crucial role in maintaining the integrity and transparency of the banking industry and preventing any form of exploitation or mistreatment of consumers. In India, the implementation of the Consumer Protection Act (CPA) in 1986 was aimed at upholding consumer rights and preventing unfair trade practices. The CPA empowers consumers with various avenues for recourse, including seeking compensation, lodging complaints with consumer forums, and pursuing appeals in higher courts. These provisions are designed to combat fraudulent and exploitative behaviors by providing consumers with legitimate mechanisms to address unjust commercial practices.

The consumer protection laws in India are designed to safeguard customers from fraudulent activities and ensure their well-being, while also fostering healthy competition and innovation in the marketplace.

Consumer protection laws offer the banking sector a valuable framework by establishing enforceable standards. This framework not only promotes competition and innovation but also ensures that banks compete based on pricing, quality, and inventive solutions. As a result,

⁴ *Surendra Mohan Arora v. HDFC Bank Ltd*. MANU/SC/0367/2014

consumer protection laws foster a diverse array of financial products and services, benefiting consumers while incentivizing banks to continually enhance their offerings.

THE EFFICACY OF CONSUMER PROTECTION LAWS IN SAFEGUARDING CONSUMERS

Although the primary goal of India's consumer protection laws is to ensure the well-being of consumers and promote ethical business practices, various hindrances hinder their complete implementation and enforcement.

Here are a few things that prevent the smooth functioning-

- Insufficient consumer awareness stands as a key barrier to effectively implementing consumer protection laws in India. Even when individuals possess knowledge about their legal rights, the process of pursuing these rights can be arduous and time-intensive. The substantial volume of cases presented in consumer forums and courts further contributes to the sluggish resolution of conflicts. Moreover, a significant number of consumers might perceive the expenses associated with obtaining legal guidance as a deterrent, thereby limiting their ability to seek legal redress.
- Effective enforcement of consumer protection legislation in India is often hindered by inadequate infrastructure and limited resources. The capacity to implement decisions made by regulatory bodies such as the National Consumer Disputes Redressal Commission (NCDRC) and the State Consumer Disputes Redressal Commissions (SCDRCs) imposes constraints on their effectiveness. Additionally, the substantial presence of the unorganized sector within the Indian economy poses a significant challenge in overseeing and upholding consumer protection laws. Ensuring compliance with consumer protection regulations by small businesses and suppliers operating beyond the purview of regulatory authorities proves to be intricate. These laws have been established to guarantee that consumers have recourse to legal remedies in cases of unjust business practices, faulty products, or substandard services.
- Generalizing the effectiveness of consumer protection laws in India is challenging due to their dependency on various factors. These factors encompass consumer awareness, the

implementation approach, and the underlying legal and regulatory structure. Despite the existence of numerous consumer protection laws in India, their enforcement encounters challenges arising from factors such as limited resources, inadequate awareness, and instances of corruption. As a result, effectively implementing and ensuring adherence to these laws remains a complex task.

Nonetheless, the government has recently engaged in several initiatives aimed at enhancing the effectiveness of consumer protection regulations and strengthening the laws governing them. The initial Consumer Protection Act established in 1986 has been revoked and substituted with a fresh Consumer Protection Act, which was ratified by the government in 2019. The revised act seeks to provide more streamlined safeguarding of consumer interests, elevate consumer rights, and promote equitable business behaviors.

The government has set up various institutions to safeguard consumer rights, including bodies like the National Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commissions, and District Consumer Disputes Redressal Forums. These entities, including the National Consumer Disputes Redressal Commission, provide consumers with a platform to voice their grievances and seek resolutions for the issues they face in their everyday experiences.

In the case of *ICICI Bank Limited v. Prakash Kaur*⁵, the Supreme Court decreed that the NCDRC possesses the authority to mediate disputes involving consumers and banks, thereby ensuring the equitable dispensation of justice. Furthermore, the court established that banks can be held accountable for any shortcomings in the services they provide, and individuals have the right to pursue reparation for such inadequacies.

Tracing back through the previous endeavors of the RBI, we can observe its initiatives in introducing the Banking Ombudsman ("BO") Scheme 2006. The BO Scheme serves as an 'Alternative Dispute Resolution Mechanism' designed to resolve conflicts between banks and their customers. Presently, our country houses 20 BO offices. Nonetheless, the Indian Banking Sector remains vulnerable to an array of recognized and unforeseen hazards and uncertainties such as cyber breaches, fraudulent activities like phishing and vishing, data breaches, unauthorized data

⁵ (2007) 2 SCC 711

usage, violations of data privacy, malware onslaughts, and more. While the existence of these risks is acknowledged, the exact manner, timing, and severity with which they materialize remain uncertain. In this context, the role of the Ombudsman has grown arduous due to the surge in complaint volume, their intricate nature, and the need to navigate the ever-changing financial landscape.

RECENT ADVANCEMENT IN THE BANKING INDUSTRY THAT HAS HEIGHTENED CONSUMER SAFEGUARDING

Article 21 of the Indian Constitution can be identified as the foundational principle underpinning the development of consumer protection legislation in our nation. The cornerstone of these laws is the Right to Privacy, as it serves as the cornerstone upon which consumer protection measures are built, given that each individual possesses the right to personal autonomy. Concurrently, service providers bear the inherent responsibility of safeguarding the 'Right to Privacy' for their esteemed clientele.

This sentiment was underscored by the Kerala High Court, drawing from the case of District Registrar and the Collector v. Canara Bank⁶, which affirmed that soliciting information regarding bank accounts in the absence of legal mandates violates the Right to Privacy. The Kerala High Court endorsed this stance, emphasizing that seeking particulars related to an individual's bank account would constitute a violation of their Right to Privacy.

As a result, this ruling has instilled a positive sense of assurance among banking customers, fostering confidence in the banks' commitment to preserving customer privacy and upholding the sanctity of the Right to Privacy enshrined within the framework of the Indian Constitution.

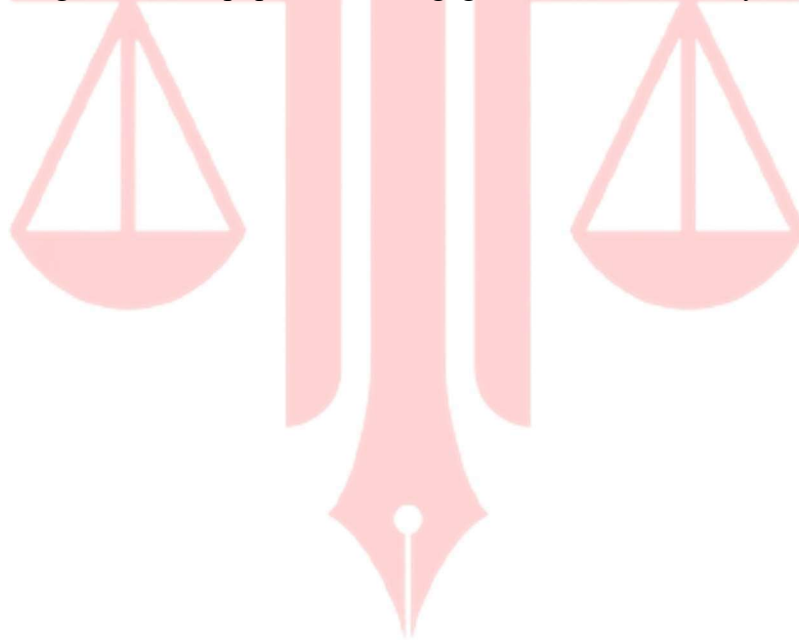
Consumer protection laws have not only been enacted to ensure the safety of consumers but have also led to the formation of regulatory bodies tasked with overseeing the operations of the financial services industry. These agencies bear the responsibility of verifying banks' adherence to relevant statutes and guidelines, initiating inquiries into consumer grievances and fraudulent activities, and undertaking necessary measures to safeguard the welfare of customers.

⁶ AIR 2005 SC 186

CONCLUSION

Implementing consumer protection regulations within the banking sector is imperative to foster transparency, equity, and responsibility within the industry. Such regulations play a vital role in ensuring that consumers are shielded from exploitative commercial methods and are able to access financial products and services that stand on fair and competitive ground.

Consumer Protection Laws have exerted substantial influence over the contemporary legal framework that governs banking operations. They have amplified transparency and accountability, promoted equitable competition, and provided a shield against deceptive and unethical business practices for customers. Moreover, these regulations have spurred the creation of innovative financial offerings that align with customer needs, thereby expanding financial inclusion and enabling a broader segment of the population to engage with the financial system.



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